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CANADA

In re Application of	:	
Brault et al.	:	
Application No.: 10/585,096	:	DECISION
PCT No.: PCT/CA2005/000018	:	
Int. Filing Date: 07 January 2005	:	ON
Priority Date: 12 January 2004	:	
Attorney Docket No.: 3121-1A-1	:	PETITION
For: Worktable Comprising A Multidirectional Coupling	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 14 May 2008.

BACKGROUND

This international application was filed on 07 January 2005, claimed an earlier priority date of 12 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 21 July 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 July 2006. Applicants filed *inter alia* the basic national fee on 30 June 2006.

On 21 March 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, petitioner has paid \$130.00 toward the \$200.00 petition fee. The \$70.00 balance is being charged to counsel's Deposit Account no. 12-1110, as authorized in the Transmittal Letter filed on 30 June 2006.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that "the non signing inventor could be reached but would not return the signed document," in reference to non-signing joint inventor Jean Brault. Counsel is respectfully referred to MPEP 409.03(d) for a general discussion of the showing required to satisfy this element.

Petitioner provides an "Affidavit of Mrs. Annie Roy" in which Mrs. Roy states that an assignment was transmitted to Mr. Brault's residence but he failed to execute and return it. Ms. Roy concludes, after recounting certain background facts, that "I believe it will be impossible to obtain Mr. Brault's signature for the transfer of the entire right, title and interest in the invention

to Triangle.” However, Mrs. Roy does not address the issue of whether Mr. Brault has refused to execute an oath or declaration directed toward the instant application after being presented with a complete copy of the application papers. It is also noted that the French language letter from Mrs. Roy to Mr. Brault is not accompanied by an English translation. For these reasons, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

Regarding **requirement (3)**, the petition provides the last known address of the non-signing inventor. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 02 May 2008 reveals that it has been signed by joint inventors Roy and Krick on behalf of themselves and Jean Brault. However, petitioner’s attention is respectfully drawn to 37 CFR 1.69(b), which provides that

Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

The declaration alludes to the February 1998 version of form “PTO/SB/105 (2-98),” but it does not appear to be identical to the February 1998 version of Form PCT/SB/105 available at the USPTO.gov web site. Petitioner is required to explain whether the form used was in fact provided by the USPTO, and/or provide the required statement that the translation is accurate.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled “Renewed Petition Under 37 CFR 1.47(a).” Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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